IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 6501 of 2004

Between:

K. Satyanarayana, S/o. Venkaiah,
H.No.9-38, Jamadagni Street, Ashoknagar,

Vijayawada, Krishna District.

...PETITIONER

AND

1 Union Bank of India, rep. by its Senior Manager (Personnel),
Nodal Regional Office, Latha Complex, 2nd Floor, Nampally,

Hyderabad.
2 The Asst. General Manager, Union Bank of India, Regional

Office, 3rd Floor of Nataraj Hotel, Governor pet, Vijayawada,
Krishna District.
3 The Branch Manager, Union Bank of India,
Reddygudem Branch, Reddygudem (P.O) & Mandal,

Krishna District.
4 The Branch Manager, Union Bank of India,
Enikepadu Branch, Vijayawada, Krishna District.
5 The Branch Manager, Union Bank of India,
S.S.I. Branch, Autonagar, Vijayawada, Krishna District.
6 The Branch Manager, Union Bank of India,
Poranki Branch, Vijayawada, Krishna District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in not regularising the services of the petitioner as a Sweeper as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and further to direct the respondent herein to regularise the service of the petitioner as a Sweeper from the date of initial appointment with all consequential benefits.

Counsel for the Petitioner: MR.B.P.RAJU

Counsel for the Respondent No.1: MR.C.R.SRIDHARAN Counsel for the Respondent Nos.2 to 6: MR.A.KRISHNAM RAJU

The Court made the following :

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ORAL ORDER:

With the consent of the parties, the writ petition itself is taken up for disposal.

The writ petition is filed seeking a writ of mandamus declaring the action of the respondents in not regularizing the services of the petitioner as sweeper, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India, with a consequential direction to the respondents to regularize the services of the petitioner from the date of his initial appointment, with all consequential benefits.

It is the case of the petitioner that he has been working in the respondents' bank for the last more than 17 years. Initially he worked as sweeper in the third respondent bank from 1.4.1987 to 31.3.2000, and thereafter with the fourth respondent bank from 1.4.2001 to April, 2004. Since the petitioner worked as sweeper in the respondents' bank for a considerable period, he is entitled for regularization of his services, and denial of regularization of his services in the cadre of sweeper is arbitrary and illegal.

A common counter has been filed on behalf of the respondents 1 to 6, stating that the very basis for filing the writ petition itself is lacking, inasmuch as according to the petitioner, he worked for 2,336 days from 1.4.1987 to 31.3.2000 i.e. for a period of 13 years. Even according to the petitioner, he worked in the third respondent bank, which works out to 179 days per year. This itself would disentitle the petitioner from claiming any relief from this Court. Apart from it, it is asserted that the records for the relevant period, during which the petitioner claims to have been engaged as a casual labour i.e. between 26.7.1991 and 31.12.1996, do not reveal that he had been engaged/deployed for more than 240 days in a calendar year. The deployment of the petitioner was sporadic with vide gaps and it was not continuous at all. Therefore, the very basis for the claim of the petitioner has been denied. Further, it is submitted by the learned counsel appearing on behalf of the respondents that there are disputed questions of facts which cannot be gone into in this writ petition.

This is not a case where the respondents have admitted that the petitioner had worked with them for more than 240 days in a calendar year. Even according to the petitioner, he was not in service with effect from April, 2002. The petitioner has not challenged his termination either by way of raising a dispute before the Industrial Tribunal or by filing a writ petition before this Court. Only after a lapse of more than two years, the petitioner filed the present writ petition seeking regularization of his services in the respondents' bank. Such a course of action is not permissible and the writ petition is totally misconceived. If the petitioner is really aggrieved and he has any cause of action, he may approach the Labour Court and work out his remedies by adducing evidence, both oral and documentary. In a writ petition like this, it is difficult to go into the disputed questions of facts and decide as to how many days in each year the petitioner worked, what are his rights under the Industrial Disputes Act, and to what relief he is entitled for.

Writ petition is accordingly dismissed, giving liberty to the petitioner to approach the Labour Court and work out his remedies. No order as to costs.

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25th November, 2004.

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To

1 The Senior Manager (Personnel), Union Bank of India,
Nodal Regional Office, Latha Complex, 2nd Floor,

Nampally, Hyderabad.

2 The Asst. General Manager, Union Bank of India, Regional

Office, 3rd Floor of Nataraj Hotel, Governorpet, Vijayawada,
Krishna District.

3 The Branch Manager, Union Bank of India,
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6 The Branch Manager, Union Bank of India,
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7. Two C.D.copies